UNITED NATIONS

CCPR

International covenant on civil and political rights

Distr.
GENERAL

CCPR/C/SR.1462
31 October 1995

Original: ENGLISH

HUMAN RIGHTS COMMITTEE

Fifty-fifth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 1462nd MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 26 October 1995, at 3 p.m.

Chairman: Mr. AGUILAR URBINA

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Second periodic report of Afghanistan

* The summary record of the second part (closed) of the meeting appears as document CCPR/C/SR.1462/Add.1.

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.95-19225 (E)

The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4)

Second periodic report of Afghanistan (CCPR/C/57/Add.5; M/CCPR/C/55/LST/AFG/3)

1. At the invitation of the Chairman, Mr. Tandar and Ms. Maiwand-Olumi (Afghanistan) took places at the Committee table.

2. Mr. TANDAR (Afghanistan) apologized for the fact that owing to the internal crisis his country had been unable to submit a written report for several years. He also apologized for the absence of the head of the delegation, Mr. Draize, who had been unavoidably delayed on his way to Geneva.

3. In introducing his country's report, he said a knowledge of the historical background of Afghanistan was essential to an understanding of the elements that had contributed to the current human rights situation, which was the heritage of a painful recent past. In 1978, a coup d'état, fomented by the communist party of Afghanistan, had ousted the President. The rejection of the system and ideology imposed by a regime which had no popular legitimacy had provoked resistance and led to the invasion of the country by the Soviet army on 27 December 1979. As had been reported in various documents submitted to the Commission on Human Rights and the General Assembly, the occupation had been characterized by arbitrary rule. The prisons had been filled with political prisoners who had been held without trial, and the mere suspicion of opposition had sufficed as a pretext for execution. The country had suffered serious damage, particularly in the intellectual sphere which, as in all countries, represented the foundation for the future. Torture had been the most frequently used tool of the regime. Massive summary executions had taken place and when, in September 1979, the President of the time, Nur Mohammed Taraki, had been ousted by his deputy, Hafizullah Amin, a list of 12,000 persons who had been executed in prison had been posted on the walls of the Ministry of the Interior.

4. Since the end of the communist regime in April 1992, three common graves had been found, at Pol-i-charkhi in the suburbs of Kabul next to the central prison, and in the provinces of Bamyan and Herat. The Government was convinced that further investigations would reveal other such graves. The occupation and ensuing war had led to more than 1 million deaths and forced 6 million people out of a total population of 16 million to seek exile in neighbouring countries. About 2 million persons had been displaced, several tens of thousands had been disabled by anti-personnel mines, and the number of orphans and other persons left without families ran into the tens of thousands.

5. There had been serious consequences for the health and education infrastructure. Most schools and the entire health infrastructure had been destroyed. A report published by UNICEF stated that more than 1.5 million children had died from malnutrition and lack of health care during the war.

Political interests and ideology had pervaded all aspects of the Government: the army, security forces and administrative branches had been subject to the dictates of the party.

6. Those were the conditions under which the resistance movement had assumed power and declared a general amnesty. All prisoners had been released. In his first speech, in July 1992, the President of the Republic had declared Afghanistan's unwavering respect for the Charter and the Universal Declaration of Human Rights, in the hope that after so much suffering and violations of human rights all Afghans could bind the wounds of war and join in the national reconstruction of a just society. In its early days in office, the Government had faced armed attacks by extremist forces and, despite the pleas of the Prime Minister, the population of Kabul had been bombarded by 1,500 rocket attacks. Access routes had been blocked and many civilians injured and killed. Several hundreds of thousands of refugees and displaced persons had fled to nearby countries and other regions of Afghanistan.

7. The Government had convincing proof that the extremist movement had been financed, armed and trained by external powers. It believed that the halting of such interference in the country's internal affairs would enable the people of Afghanistan to surmount the crisis and to solve their problems within the framework of dialogue and negotiation. The extremist forces had as their main tenets the total negation of all human values granted to women, the closing of schools for women in the areas under their control and the prohibition of access by women to jobs within the Government. Propaganda had been disseminated in the form of false documents claiming to represent the government position on the rights of women.

8. Despite pressure from extremist forces, the resistance and will of the Government to encourage the continued participation of women in the affairs of State had been unshakeable, because it believed that without the participation of all Afghans, including women, the goal of conquering underdevelopment could not be achieved. Dictatorship, terror and fanaticism had no role to play in Afghanistan as it approached the twenty-first century. It was popular will, the expression of that will, the reign of democracy and the rule of law that should prevail.

9. The Government was resolute in its support for respect for political rights. The head of the delegation represented a NGO composed of university professors which, among other organizations, was actively engaged in the protection of those rights. The National Commission on Human Rights played an advisory role vis-à-vis the Government.

10. With reference to the ethnic composition of the country and minorities in Afghanistan, he repeated the Government's position that Afghanistan represented the common heritage of the entire population without any form of discrimination. The diversity of the population was the result of Afghan history and as such represented a richness that was the hallmark of

Afghan culture. It was the right of all ethnic groups to participate in national affairs, just as it was their participation that would spur national reconstruction.

11. In the three-year period since 1993, more than 3 million refugees had returned to Afghanistan through the Government's involvement in two tripartite commissions, with Pakistan and UNHCR and with Iran and UNHCR respectively. It had been the unswerving position of the Afghan Government that the return of refugees should be carried out in dignity and on a voluntary basis, free of impediments. As of March 1995, over 100,000 displaced persons had returned to their homes. No effort had been spared to facilitate the rehabilitation of displaced persons and the reopening of schools and administrative centres to meet their needs.

12. A number of prisoners of war, including foreigners, had been freed as a sign of goodwill. The Government agreed that it was not an ideal situation to have detention centres, but the situation had been due not to a deliberate political decision, but rather to the deplorable economic situation. The detention centres had been visited by personnel from the International Committee of the Red Cross (ICRC).

13. The Government was committed to respect for human rights. It believed that the Afghan people who had fought so bravely to regain their independence deserved such respect. It also believed that a victorious Afghanistan was only possible through dialogue, negotiation and political discussion, and had repeatedly affirmed its willingness to cooperate in various arenas through the Special Representative of the United Nations on Afghanistan, and to follow up on the initiatives of the Islamic Conference, neighbouring countries and various individuals. Unfortunately, it faced a situation in which armed opposition was claiming power with the intention of depriving women of certain rights. Those goals, in the eyes of the Government, were unacceptable and non-negotiable. The Government had made several political proposals, the latest of which was dated 17 October 1995. In an official statement, the Government had pointed out that every opportunity should be taken to strengthen peace and stability. Military operations were futile in achieving sound objectives. The Government had proposed the establishment of a cease-fire to be followed by negotiations with opposition forces. It had supported popular consultation because it was only legitimate and direct representation that would permit constructive planning of the future of the country.

14. It was in that spirit that Afghanistan had proposed, in the General Assembly on 4 October 1995, that a commission should be established under United Nations supervision to prepare a constitution aimed at ensuring democracy and guaranteeing human rights. A parliament representing the people of Afghanistan should honour the principles of proportionality and justice. Also at the current session of the General Assembly, the Government had reiterated its renewed commitment to the human rights covenants and the Universal Declaration of Human Rights and to the maintenance of the principles of human rights as a priority within its political objectives.

15. The CHAIRMAN thanked Mr. Tandar for his introduction and invited him to respond to section I of the list of issues (M/CCPR/C/55/LST/AFG/3), which read:

"I. Constitutional and legal framework within which the Covenant is implemented; right to self-determination; state of emergency; right to participate in the conduct of public affairs; and rights of persons belonging to minorities (arts. 1, 2, 4, 25 and 27)

(a) What has been the impact, during the period under review, of the armed conflict on the exercise of the rights guaranteed under articles 1, 2, 4, 25 and 27 of the Covenant?

(b) Please clarify what safeguards and remedies were available to individuals during the period under review, what status was accorded to the rights enumerated in article 4, paragraph 2, of the Covenant, and why the Government of Afghanistan has not made use of the notification procedure laid down in article 4, paragraph 3, of the Covenant.

(c) Has the draft Constitution been adopted and what is the envisaged status of the Covenant within domestic law?

(d) What is the role of central and regional authorities with regard to the application of the Covenant in Afghanistan? To what extent has religion been an influence on the law and the administration of justice?

(e) Please provide information on measures taken to comply with article 27 of the Covenant."

16. Mr. TANDAR (Afghanistan) said that, in the absence of the head of the delegation, he would do his best to respond. The right to self-determination could not be invoked in Afghanistan as it was a sovereign, independent country. Article 1 of the Covenant was to be understood as conferring the right of the people to legitimate expression on the future direction of their country, and his Government believed that right would provide the only solution to the crisis in his country. It was the people who should exercise their sovereign right to express their views. His Government had sought assistance from the United Nations and the Islamic Conference in that regard.

17. His Government believed that the right to own property was sacred. During the occupation, property had been confiscated but since 1993 the Government had been returning such property to persons in possession of legitimate titles but it had had neither the time nor the opportunity to award compensation. The provisions in article 4 did not pertain to Afghanistan because there had not been an official declaration of a state of emergency in the country. His Government not only fully endorsed article 25 and its provisions, but considered it a part of the Government's priority action for peace. The events that had occurred during the period of turmoil

had not allowed the Government to achieve the goals of article 25. However, he took the opportunity to restate his Government's commitment to the total participation of the Afghan people in the country's affairs. He assured the Committee that freedom of expression and equality between the sexes would be respected.

18. He wished to stress that the Afghan Government respected the rights of all minorities, whether ethnic, religious or linguistic; Afghanistan was, furthermore, a tolerant society. Each of Afghanistan's various regions had its own media, including radio and television. Education was conducted in the two national languages, as well as in each regional language. In reply to question I (c), he said that the draft constitution had not been adopted.

19. He regretted that the head of his delegation was held up in New Delhi through no fault of his own. He would inform the Committee of the time of his arrival as soon as possible.

20. The CHAIRMAN said that consideration of the report of Afghanistan would be resumed at a subsequent meeting, at such time as the head of the Afghan delegation could be present.

The public part of the meeting rose at 3.50 p.m.